

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
TUCSON DIVISION

WILDEARTH GUARDIANS,	)	
	)	
Plaintiff,	)	
	)	No. 13-151-RCC
vs.	)	
	)	<b>UNOPPOSED MOTION FOR</b>
UNITED STATES FISH AND WILDLIFE	)	<b>RECONSIDERATION OF</b>
SERVICE and UNITED STATES FOREST	)	<b>SCHEDULING ORDER</b>
SERVICE,	)	<b>(ECF DOC. NO. 106)</b>
	)	
Defendants.	)	(Expedited consideration requested)
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In its Scheduling Order of October 21, 2019 [ECF Doc. No. 106], the Court orders Plaintiff WildEarth Guardians to respond to the Federal Defendants' pending Rule 59 motion by October 25, 2019. Plaintiff WildEarth Guardians hereby respectfully moves the Court to reconsider its October 21, 2019 Scheduling Order, and to extend the time for filing of its responsive memorandum to 9:00 a.m. Arizona time on October 28, 2019. Plaintiff has conferred with counsel for the Federal Defendants on this motion, and the Federal Defendants do not oppose this motion upon the condition that the time for filing their reply memorandum is extended by one day – to November 5, 2019 – and the further condition that the Court maintains the current setting for a hearing on their Rule 59 motion on November 7, 2019. WildEarth Guardians believes that these conditions are reasonable.

In support of this motion, WildEarth Guardians states that the Federal Defendants' currently pending Rule 59 motion raises a myriad of factual and legal issues which require response. Extending the deadline for WildEarth Guardians' response memorandum until 9:00 a.m. Arizona time on October 28, 2019 will facilitate WildEarth Guardians' preparation of a comprehensive and meaningful response to the numerous factual and legal arguments set out in the Federal Defendants' pending Rule 59 motion, and thereby facilitate the most-informed decision by this Court on the motion.

WildEarth Guardians respectfully represents to the Court that it has not been "sitting on its hands" since the time that the Federal Defendants filed their Rule 59 motion. Indeed, the opposite is true. Since the Rule 59 motion was filed, WildEarth Guardians and the undersigned have devoted an extraordinary amount of time in working to assure that the contours of the Court's injunction are specifically tailored to those activities that pose a risk to the conservation and recovery of the Mexican spotted owl. Those efforts by WildEarth Guardians include a careful review of the categories of the actions that the Federal Defendants desire to have excepted from the injunction. In connection with that effort, the undersigned has expended considerable resources in communications with counsel for the Federal Defendants and in the negotiation and development of an as yet unapproved stipulation with the Federal Defendants [ECF Doc. No. 105] to release the vast majority of currently enjoined projects from operation of the injunction. *If the Court were to approve that stipulation, the only enjoined activities would be activities that are planned for implementation in Mexican spotted owl habitat.*

Under the extenuating circumstances of this case, the undersigned submits that his deployment of time towards this end was not only warranted; it also demonstrates WildEarth Guardians' utmost good faith in having this case appropriately and fairly resolved with the least amount of disruption to forest management activities on the relevant national forests.<sup>1</sup>

In light of the facts (1) that WildEarth Guardians is working extremely diligently to address the concerns raised by the Federal Defendants in their Rule 59 motion, (2) that those efforts have culminated in a very significant narrowing of the injunction (if the pending stipulation is approved) to *only* those activities occurring in Mexican spotted owl habitat, and (3) that the Federal Defendants do not oppose this motion upon the conditions set out in the first paragraph of this motion above, WildEarth Guardians respectfully requests that its time to respond to the Federal Defendants' Rule 59 motion

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The undersigned represent that the referenced efforts towards narrowing the scope of the injunction were his "top priority" while they were occurring, and came on top of his additional docket obligations. The combined effect of heavy work load flow in other cases and the undersigned's efforts to address the Federal Defendants' concerns regarding the injunction in an expedited fashion necessitate this motion for an extension of time on the Rule 59 response until 9:00 a.m. Arizona time on October 28, 2019.

be extended until 9:00 a.m. Arizona time on October 28, 2019, and that the Federal Defendants' time to file their reply be extended by one day until November 5, 2019.

Dated: October 22, 2019.

Respectfully submitted,

/s/ Steven Sugarman

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Unopposed Motion for Reconsideration of Scheduling Order was served on counsel of record on October 22, 2019 through the Court's electronic CM-ECF system.

/s/ Steven Sugarman

Steven Sugarman